

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CHARLES W LOYD,

Plaintiff,

CASE NO. C14-5349 BHS-JRC

ORDER

CLARK COUNTY POLICE
DEPARTMENT and VANCOUVER
POLICE,

Defendant.

This 42 U.S.C. §1983 civil rights matter has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. §§ 636 (b) (1) (A) and (B) and Local Magistrate Judge Rules MJR 1, MJR 3, and MJR 4.

Plaintiff is attempting to sue the “Clark County police and the Vancouver police” in a civil rights action (Dkt. 1, proposed complaint). A police department is not an entity that can be sued in a civil rights action.

42 U.S.C. § 1983, allows for suit against a person acting under the color of state law who deprives someone of rights, privileges or immunities secured by the constitution or laws of the

1 United States. *Parratt v. Taylor*, 451 U.S. 527, 535, (1981) (overruled in part on other grounds);
2 *Daniels v. Williams*, 474 U.S. 327, 330-31, (1986).

3 42 U.S.C. § 1983 applies to actions of “persons” acting under color of state law. The
4 language of §1983 is expansive and does not expressly incorporate common law immunities.
5 *Owen v. City of Independence, Mo*, 445 U.S. 622, 627 (1980). Municipalities are subject to suit
6 under § 1983. *Monell v. New York City Dept. of Social Services*, 436 U.S. 658, 690 (1978).
7 However, “[i]n order to bring an appropriate action challenging the actions, policies or customs
8 of a local governmental unit, a plaintiff must name the county or city itself as a party to the
9 action, and not the particular municipal department or facility where the alleged violation
10 occurred. See *Nolan v. Snohomish County*, 59 Wash. App. 876, 883, 802 P.2d 792, 796 (1990).”
11 *Bradford v. City of Seattle*, 557 F. Supp.2d 1189, 1207 (W.D. Wash. 2008)(holding that the
12 Seattle Police Department is not a legal entity capable of being sued under § 1983). Thus, it
13 appears the proper defendant would be Clark County and the City of Vancouver, not the
14 Sheriff’s department or city police department.

15 The Court orders that plaintiff file an amended complaint curing the defect in his
16 filing. Plaintiff’s amended complaint will act as a complete substitute for the original and
17 not as a supplement. Plaintiff must file his amended complaint on or before May 30,
18 2014 or the Court will recommend dismissal of this action for failure to comply with a
19 Court order and failure to prosecute.

20 Dated this 2nd day of May, 2014.

21 
22 J. Richard Creatura
23 United States Magistrate Judge
24